

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | Criminal No. 18-292 |
| |) | |
| |) | |
| ROBERT BOWERS |) | |

**MOTION FOR LEAVE TO FILE SUPPRESSION MOTIONS AND
ATTACHED EXHIBITS UNDER SEAL OR, IN THE ALTERNATIVE,
AN ORDER FROM THE COURT TO FILE THEM PUBLICLY**

Defendant, Robert Bowers, through undersigned counsel, respectfully requests an order allowing him to file under seal the motions to suppress and the attached exhibits, or, in the alternative, an order from the Court directing him to file them on the public docket. In support of this request, counsel states as follows:

1. Pursuant to this Court's scheduling order, Mr. Bowers intends to file several motions to suppress no later than October 1, 2020. (ECF 247.)
2. The motions challenge several search warrants and orders issued pursuant to 18 U.S.C. § 2703(d). The affidavits in support of the warrants, the search warrants, and the 18 U.S.C. § 2703(d) applications and warrants were filed and remain under seal.
3. The sealed materials at issue – search warrants, affidavits in support, and § 2703 applications and orders – were provided to the defense in discovery and are subject to the Protective Order in this matter. (ECF 24.)

4. Pursuant to the Protective Order, the parties are prohibited from filing discovery materials or reproducing their content in any court filing unless the filing is placed under seal. (ECF 24 at ¶ 5.) In addition, the parties are not permitted to disclose discovery materials in open court “without prior consideration by the Court.” (*Id.*) The Protective Order further provides that the parties and the Court are to determine the procedures for the use of discovery during any hearing in this matter. (*Id.*)

5. The issue of sealing the search warrants and affidavits in support arises because various courts have permitted public access to previously sealed search warrants and affidavits after an indictment has been returned. *See, e.g., In re Search Warrant for Secretarial Area Outside Office of Gunn*, 855 F.2d 569, 573 (8th Cir. 1988); *In re Application and Affidavit for a Search Warrant*, 923 F.2d 324, 331 (4th Cir. 1991); *United States v. Loughner*, Case. No. 4:11-cr-187, Doc. 150, (D.Az. Mar. 9, 2011).

6. Accordingly, Mr. Bowers requests that the Court enter an order permitting him to file the motions to suppress and the exhibits under seal or, in the alternative, an order directing him to file the motions and exhibits on the public docket.

Respectfully submitted,

s/ Judy Clarke

Judy Clarke

Clarke Johnston Thorp & Rice, PC

s/ Michael J. Novara

Michael J. Novara

First Assistant Federal Public Defender

s/ Elisa A. Long

Elisa A. Long

Supervisory Assistant Federal Public Defender

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | Criminal No. 18-292 |
| |) | |
| ROBERT BOWERS |) | |

ORDER OF COURT

Upon consideration of Robert Bowers' Motion for Leave to File Motions to Suppress and Exhibits Under Seal, or in the Alternative, an Order from the Court Directing Him to File them Publicly, it is hereby ORDERED that the Motion is GRANTED.

It is further ORDERED that Mr. Bowers may file the motions to suppress, along with any attached exhibits, under seal. Mr. Bowers is not required to file a redacted version of the documents.

The documents shall remain sealed until further Order of the Court.

Date

Donetta W. Ambrose
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | Criminal No. 18-292 |
| |) | |
| ROBERT BOWERS |) | |

ORDER OF COURT

Upon consideration of Robert Bowers' Motion for Leave to File Motions to Suppress and Exhibits Under Seal, or in the Alternative, an Order from the Court Directing Him to File them Publicly, it is hereby ORDERED that the Motion is GRANTED.

It is further ORDERED that Mr. Bowers file the motions to suppress, along with any attached exhibits, on the public docket.

Date

Donetta W. Ambrose
United States District Judge